

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.: 4:19-cr-00485-1-CDP-NCC
)	
MICAH GORDON,)	
)	
Defendant.)	

**MOTION FOR RELEASE PENDING DESIGNATION
TO BUREAU OF PRISONS FACILITY**

Comes now defendant, MICAH GORDON, through counsel, Stephen C. Williams, and moves this Court, pursuant to 18 U.S.C. § 3145, to order him released on house arrest pending designation to report to a BOP facility. In support thereof Defendant states:

1. Defendant is currently detained at the St. Louis City Justice Center. Defendant has reported to counsel that the Jail is not adhering to safety protocols in order to protect against the spread of COVID -19. Specifically, inmates are being allowed into the dayrooms/rec rooms in large numbers (sometimes 20 – 30). Inmates are allowed to be in close proximity to one another – for example, sitting across a table playing chess. And staff are not consistently wearing their protective clothing. In fact, some staff are carrying their face masks hanging from their belts.
2. Counsel has verified with another of his clients that these conditions exist. Counsel has also verified through another attorney that practices in this district that he too has a client that has observed and reported these conditions to him. Counsel has previously reported these conditions to the U.S. Marshal, EDMO, on two occasions. Counsel has also previously notified the Court of these conditions. Counsel has verified with Defendant that these conditions continue to persist as of today's date.

3. It is further counsel's understanding that no detainees are currently being transferred to Bureau of Prison's custody while the COVID-19 crisis continues. Therefore, at present, Mr. Gordon would remain detained in the Justice Center until the pandemic has subsided – an indeterminate date in the future.
4. Ordinarily, a person sentenced to a term of imprisonment will be detained absent a viable issue on appeal or motion for new trial. 18 U.S.C. § 3143(b).
5. However, pursuant to 18 U.S.C. § 3145 a court reviewing a previous order of detention may order a defendant released under appropriate conditions if exceptional circumstances exist justifying his release.
6. Counsel submits that, in light of this Court's findings, orders and ubiquitous reporting and orders from state governors as well as pronouncements and advice from the U.S. government – to include the CDC and the President – the Court can take judicial notice of the seriousness of COVID-19 and the need to take proactive protective measures such as enforced social distancing and use of facemasks when social distancing cannot otherwise be enforced.
7. In light of the forgoing, Defendant submits that exceptional circumstances exist to justify Mr. Gordon's release after sentencing pending his designation to a Bureau of Prisons facility.
8. Mr. Gordon submits that the Court has appropriate conditions available to it – namely house arrest with electronic monitoring – to reasonably assure the safety of the community and that Mr. Gordon will report as directed to the U.S. Marshal – or any BOP facility – when designated.

WHEREFORE, Defendant prays that this Court find that exceptional circumstances exist to warrant Mr. Gordon's release pending designation to a BOP facility.

Respectfully submitted,

/STEPHEN C. WILLIAMS

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CERTIFICATE OF SERVICE

I hereby certify that on April 15th, 2020, I electronically filed this Motion for Release Pending Designation to a BOP Facility with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/STEPHEN C. WILLIAMS

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